



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,365	02/08/2002	Kurt Zachhuber	GRAT 18.795	2978

26304 7590 10/29/2003

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER

SPISICH, MARK

ART UNIT	PAPER NUMBER
----------	--------------

1744

DATE MAILED: 10/29/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

CLO-6

Office Action Summary

Application No.

09/889,365

Applicant(s)

ZACHHUBER, KURT

Examiner

Mark Spisich

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other:

DETAILED ACTION

Comment Re Pre Amendment Mentioned on Transmittal Letter

It is noted that the transmittal letter indicated that a first preliminary amendment was filed; however, no such amendment is present in the application. A telephone call was made to Harris A. Wolin (Appl Rep) on 27 October 2003. Mr. Wolin requested that the multiple dependencies of claims 6-9 be amended to depend from claim 1. These changes have been made by informal examiner's amendment.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "Working unit" (at least in its entirety) of claim 4 and the "spring device" of claim 7 must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered.**

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 refers to both a "controller" as well as a "drive unit", and these elements lack antecedent support. Also, there was no prior mention in claim 1 that the "unit" was even driven. Applicant should review the claims for any additional informalities.

3. Claims 2-4 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification is very vague as to the mechanism which would provide the liner displacement of the unit (11). This is especially true for claim 4 in that the guide (21) alone does not and cannot constitute the "working unit". One should not have to resort to undue experimentation in order to make the claimed invention. As the drawings do not show the location of the spring recited in claim 7 and the specification does not describe it with any specificity, the same applies to claim 7.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kahlbacher (USP 4,827,637). The patent to Kahlbacher discloses a floor (3) treatment machine comprising an endless belt (23) which may have brushes provided thereon (see figs 19 and 20) and which endless belt may be pivoted about a vertical axis from a maximum working width (solid lines in fig 2) to two directions on opposite sides of this position (the other positions shown in fig 2).

Art Unit: 1744

6. Claims 1,6,8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher (USP 5,426,805). The patent to Fisher discloses a floor treatment machine with a treatment unit which is pivotable about a vertical axis (54) such that it can be pivoted in two directions from a position corresponding to the maximum working width (see fig 3). The treatment unit may further pivot about a horizontal axis (64) (see fig 4) as in claim 9.

7. Claims 1,6,7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Longshore et al (USP 2,149,453). The patent to Longshore discloses a floor cleaning machine comprising a floor cleaning unit (nozzle) (63) which is pivotally attached to an undercarriage so as to move about a vertical axis and wherein it can be pivoted in two directions from its position corresponding to the maximum width (see fig 2). Longshore discloses a spring (77) to the extent required by claim 7.

8. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2,297,286. '286 discloses a floor treatment machine comprising a treatment unit (6) which can pivot about a vertical axis to two directions from a position of maximum width (see figs 1-2). With regard to claims 2-4, applicant's attention is directed to paragraph #2 of the "citations and explanations" of the international preliminary examination report.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher (USP 5,426,805) in view of Drumm (USP 4,490,872). The patent to Fisher discloses a floor cleaning unit in the form of a rotary brush (68) and only fails to disclose the bristles being in the form of a helical coil. The patent to Drumm discloses a similar brush wherein the bristles (26) are arranged in a helix. It would have been obvious to one of ordinary skill to have modified the brush of Fisher as such so as to direct the debris to one side of the machine.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over FR 2,297,286. '296 discloses the invention substantially as claimed with the exception of the particular location of the touch contact. The use of a touch contact or switch to actuate the brush (6) of '286 is known in the art per se and the location on the "front part" would be obvious to one of ordinary skill (also see the noted IPER referred to in paragraph 6).

12. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kahlbacher (USP 4,827,637). The patent to Kahlbacher discloses the invention substantially as claimed with the exception of the reversible drive. Thus use of a reversible drive means is generally known in the art and one of ordinary skill would deem it obvious to modify the device of Kahlbacher as such depending on which side of the surface of floor was dirtier. The degree of "automation" referred to in claim 12 could amount simply to a manual reversing switch that was actuated when the machine was reversed.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Weir is pertinent to the belt brush and the remaining patents are each pertinent to machines which have floor treating "units" which are pivotable about a vertical axis.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (703) 308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Mark Spisich
Primary Examiner
Art Unit 1744

MS